

FILED

SEP 06 2012

SECRETARY, BOARD OF
OIL, GAS & MINING**BEFORE THE BOARD OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
IN AND FOR THE STATE OF UTAH**

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IN THE MATTER OF THE PETITION BY
THE DIVISION OF OIL, GAS AND MINING
FOR AN ORDER:

- (1) CONFIRMING THE WITHDRAWAL
OF THE NOTICE OF INTENTION
TO COMMENCE SMALL MINING
OPERATION S/027/0111;
- (2) TO FORFEIT THE CERTIFICATE OF
DEPOSIT NO. 3887 FROM NEVADA
STATE BANK, TO DIRECT THE
DIVISION TO COMPLETE
RECLAMATION;
- (3) TO INITIATE A CIVIL SUIT
AGAINST NEVADA STATE BANK
AND ALAN NEWMAN TO
RECOVER COSTS OF
RECLAMATION; AND
- (4) TO TAKE ALL OTHER ACTIONS
NECESSARY TO RECLAIM THE
LANDS AT N1/2 OF NE1/4, OF
SW1/4, S31, T19S, R18W SLB&M
MILLARD COUNTY, UTAH.

MINUTE ENTRY

DOCKET NO.: 2012-022

CASE NO.: S/027/0111

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The Board deliberated on this matter following the August 22, 2012 hearing. The Board via this Minute Entry briefly sets forth its ruling in this matter and directs counsel for the Division to prepare a draft order.

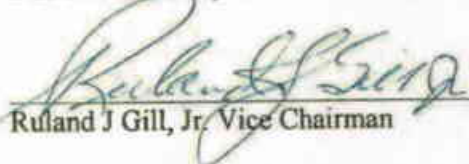
The Board finds based on the evidence presented that Respondent's operations at the subject site involved the removal of bedrock and are "mining operations" as that term is defined in Utah Code Ann. §40-8-4(14) and Utah Admin. Code R647-1-106. The Board concludes that the United States has not, through the Materials Act (30 U.S.C. §601 et seq.) or otherwise, preempted the State regulations at issue in this matter. The Board concludes that the Division

and Board have jurisdiction in this matter and the Board grants the relief prayed for in the Division's Notice of Agency Action (save the relief directed toward Nevada State Bank). Because the Board has rejected Respondent's arguments concerning whether his operations were "mining operations" and whether the federal government has preempted State regulation, the Board does not reach the Division's equitable estoppel argument. Division counsel is directed to prepare, file, and serve upon all parties a draft Findings of Fact, Conclusions of Law and Order consistent with the rulings set forth in this Minute Entry.

The Chairman's signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

DATED this 6th day of August, 2012.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING



Rufand J. Gill, Jr. Vice Chairman

CERTIFICATE OF MAILING

I hereby certify that I caused a true and correct copy of the forgoing MINUTE ENTRY to be mailed first class mail, postage prepaid, the 6th day of August, 2012, to:

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